1950.

File No. O. Mines & Minerals

Legal Dept. 50

A **BRANCH**

Subject:— Opinions under the Mines & Minerals (Regulation & Development) Act, 1948

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File No. O. Mines & Minerals / 50

Gen. 194 e

2-88-A

C O N T E N T S.

Legal Department File No. 3,,,

Mineral Concession Rules, 1949. Grant of Mining Leases to Messrs. Sunder Minerals Ltd.

Office of the R.L.A.

So far as the two leases in favour of Messrs Sunder Minerals Ltd. are concerned it does not appear that they were granted under the provisions of any Statute. They appear to be in the nature of agreements entered into by the Rulers with the firm. These agreements will not be binding on the successor Government unless they they are expressely recognised. "It is a well established rule of law that the rights which the inhabitants of the State enjoyed against the former ruler avail them nothing against the successor Government except in so far as they have been recognized by the sovereign power. Recognition may be by legislation or by agreement express or inlied"(Syed Ansar Ahmed Vs. the Durgah Committee, Ajmer, 49 Bom.L.R. 225 etc.) Presumably there is nothing nothing in the instrument of accession to suggest that these leases were to be respected by the Central Government. The position will therefore have to be regularised by the grant of suitable mining leases under the Mineral Concession Rules, 1949. Under sub-section(2) of section 3 of the Merged States(Laws) Act, 1949(LIX of 1949) read with the schedule the Mines and Minerals(Regulation and Development) Act, 1948(LIII of 1948) has been extended and shall be in force in the merged States which are now administered as part of the State of Bombay. Under section 4 of that Act no mining lease shall be deemed to be valid unless it is granted in accordance with the rules made under that Act. The action needed in this case is therefore of regularising the grant under the Mineral Concession Rules, 1949. The course suggested at 'a' in the Under Secretary, Development Department's note at page 5 ante viz, asking the lessees to apply for leases from the Government of Bombay is therefore in order.

Sd/-
16-2

Remembrancer of Legal Affairs.

U.R.to.D.D.No.2341, dated the 17th February '50

M.R.D.
9-6-56

Office of the R.L.A.

Mineral Concession Rules, 1949. Grant of Mining lease to Messrs. Tata Chemicals Ltd.

The lease in favour of Messrs. Tata Chemicals Ltd, granted by the Baroda Government does not appear to have been granted under the provisions of any statutes; and in the absence of any specific recognition is not binding on the State Government. Consequently if the Company wants to continue to work the mines it will have to approach the State Government for a fresh mining lease under the Mineral Concession Rules, 1949(See R.L.A's opinion No. 2341 dated the 17th February February 1950). If as suggested suggested in the Development Department office note a mongely would not be granted to Messrs. Tata Chemicals Ltd. It will also be necessary for Messrs. The Gaekwar Agriculture and Chemical Col Ltd. to obtain a mining lease under the rules. The course proposed by the Development Department is correct.

Sd/-
17-2

Remembrancer of Legal Affairs.

U.R. to D.D. No. 2453 ,dated the 20th February 1950.

M.R.D.
8-6-56
C.4

Office of the R.L.A.

Continuance of the lease granted by Baroda Government to the Associated Cement Company for manufacture of Cement.

The associated Cement Company holds a mining lease and concessions of lands in Okhamandal sub-division from the Baroda State under an agreement between their predecessors, Messrs. Okha Cement Co.Ltd. and the Baroda State dated 24th December 1929. The Associated Cement Company is agreeable to continue to supply cement to Bombay state under clause 12(18) of the Agreement and pay rebate due on supplies of cement made in the Baroda Division on Government account from October 1947 to September 1949 until the merger of the Baroda State with the Bombay State but want to know the officer who is authorised to certify statements for such supply in place of the Director of Industries of the Baroda State. The Development Department states that the Company might be informed that the continuance or otherwise of the agreement or its renewal in conjunction with the provisions of the Mineral Concessions Rules, 1949 is separately under consideration of Government and that pending a final decision in the matter Government would like to maintain a statues quo and accept the royalty and other concessions which are due from the Company to Government and this will leave no cause for the Company to assume that Government is bound down by the agreement as a whole . The R.L.A. is requested to advise.

2. By agreement dated 21st December 1921 executed between the Baroda Government and the Okha Cement Company predecessors of the Associated Cement Company, the Baroda Government granted certain rights privileges and concessions in connection with the business of cement and kindred industries formerely carried on by the Dwarka Cement Company (in liquidation) By conditions 10 of the said agreement the term of the lease of lands and premises is stated to be forty years from the 1st November 1921. Under condition 11 the Company has to pay a royalty at the rates specified therein etc. If as stated by the Development Department, Government accept the royalty and other concessions due from the Company panding a final decisions as regards continuace or otherwise of the

agreement or its renewal in conjunction with the privision of the Mineral Concessions Rules, 1949, the agreement may be deed deemed to have been affirmed by this Government. In that case it may not be possible to repudiate the agreement because the repudiation or the affirmation will have to be done as a whole. The reply to Associated Cement Company proposed by the Development Department at page 15 ante would not therefore be suitable. It would be better for Government to come to a final decision on the question of the continuance or otherwise of the agreement than to give an interim reply, as proposed. The lease in favour of Okha Cement Company, predecessor of Associated Cement Company, granted by the Baroda Government does not apper to have been granted under the provisions of any statute; and in the absence of any specific recognition; is not binding on the state Government. If the Company wants to continue to work the mines it will have to approach the State Government for a fresh mining lease under the Mineral concession Rules. 1949 (see R.L.A.'s opinion No. 2341, dated the 17th February 1950, No. 2493 dated 20-2-50).

M.R.D.
8-6-56
C.4

Sd/-
23-3

Remembrancer of Legal Affairs.

U.R. to Dev. Deptt. No. 4039, dated the 23rd March 1950.